

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

ANGELICA QUEZADA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 22-CV-092-TCK-CDL
)	
RONNIE RODEN, individually;)	
CLINTON SCOTT WALTON, a/k/a)	
“SCOTT” WALTON, Sheriff of Rogers)	
County, in his official capacity; and)	
KYLE BAKER, individually,)	
)	
Defendants.)	

OPINION AND ORDER

Before the Court is the Plaintiff’s Motion for an Extension of Time to Effect Service upon Defendant Kyle Baker (Doc. 25), and the Response and Objection of the Defendant Clinton Scott Walton, Sheriff of Rogers County, in his official capacity (“County”) (Doc. 26).

Plaintiff originally brought her Petition against Ronnie Roden, individually (“Roden”), and Clinton Scott Walton, Sheriff of Rogers County, in his official capacity (“County”), arising out of her arrest on or about October 22, 2019. (Doc. 2-2). Defendants filed their respective Motions to Dismiss, asserting that Plaintiff’s Petition failed to plead sufficient facts to state a claim for relief. Plaintiff filed her Amended Complaint in response, and added Lieutenant Kyle Baker (“Baker”), in his individual capacity, as a Defendant. (Doc. 11). Summons was issued to Baker on July 7, 2022. (Doc. 22). Baker has neither filed an Answer, nor otherwise responded.

The record establishes the following:

1. Plaintiff filed the instant action on October 15, 2021 in Rogers County District Court, State of Oklahoma. (Doc. 2-1).

2. Plaintiff served the County and Roden, in his individual capacity, on February 9, 2022 and February 11, 2022, respectively. (Doc. 2-1).

3. On March 1, 2022, the case was removed to this Court on the basis of a federal question. (Doc. 2).

4. On March 8, 2022, Defendants filed their respective Motions to Dismiss and Briefs in Support. (Doc. 7-8).

5. On March 28, 2022, Plaintiff filed her First Amended Complaint, adding Kyle Baker as a defendant in his individual capacity. (Doc. 11).

6. On April 11, 2022, the County and Roden filed their respective Motions to Dismiss Plaintiff's First Amended Complaint and Brief in Support. (Doc. 14-15).

7. On July 7, 2022, a Summons was issued to Baker. (Doc. 22). However, Baker was never served.

8. On August 24, 2022, this Court issued an Opinion and Order Granting Defendant Roden's Motion to Dismiss in its entirety. (Doc. 23). In its Opinion and Order, this Court noted that "Summons was issued to Baker on July 7, 2022. (Doc. 22). Baker has neither filed an Answer, nor otherwise responded." (Doc. 23, n. 1).

9. No Opinion and Order has yet been issued on the County's Motion to Dismiss.

10. More than three months later, on November 14, 2022, this Court issued a Minute Order directing Plaintiff to serve Baker or show cause why Baker should not be dismissed due to lack of service by November 28, 2022. (Doc. 24). The Minute Order stated, "[i]f he is not served within this time frame, the defendant, Kyle Baker, will be dismissed from this action" (Doc. 24).

11. November 28, 2022 passed without Plaintiff serving Baker or showing cause why Baker should not be dismissed.

12. On December 2, 2022, after the Court-ordered deadline to serve Baker or show cause passed, Plaintiff filed her Motion seeking additional time to serve Baker, citing a jury trial in the month of November as good cause for extending the deadline to serve Baker. (Doc. 25).

13. Plaintiff has failed to serve Baker in the more than eight (8) months since naming him as a Defendant in this matter.

Accordingly, pursuant to this Court's November 14, 2022 Minute Order, Plaintiff's Motion for additional time to serve Baker is denied and Baker is dismissed without prejudice.

IT IS SO ORDERED this 6th day of December, 2022.


TERENCE C. KERN
United States District Judge